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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/698,265	10/30/2000	Marc Iacovelli	8209.506	6648

7590 10/31/2002
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EXAMINER

RHEE, JANE J

ART UNIT	PAPER NUMBER
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1772

7

DATE MAILED: 10/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-7

Office Action Summary

Application No.

09/698,265

Applicant(s)

IACOVELLI ET AL.

Examiner

Jane J Rhee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

1. Claims 1 and 8 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The third area was never conveyed in the original specification or claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-9,11-13 rejected under 35 U.S.C. 102(e) as being unpatentable by Lu (Des. 422256).

Lu discloses a molded flexible mat having a raised peripheral lip provided on side edges of the molded mat (figure 1), a first area contained within the peripheral lip (figure 1), the first area having a recessed bottom surface and a plurality of raised protrusions extending from the bottom surface thereby providing a texturized surface (figure 1), at least one third area having a substantially smooth bottom surface (figure 1) and at least one wear plate fixed upon the smooth bottom surface of at least one third area of the molded plate (figure 1). Lu discloses that the second area contained within the peripheral has a recessed floor and a plurality of elongated parallel ridges protruding from the recessed floor (figure 1). Lu discloses that the second area further comprises a plurality of raised bumps on the recessed floor in between the parallel ridges (figure 1). Lu discloses that the first area of the molded mat generally covers an upper section and a lower section of a substantial floor area of the mat and the second area of the molded mat generally covers a middle section of the substantial floor area of the mat (figure 1). Lu discloses at least one wear plate comprises a heel plate located in the lower section of the mat (figure 1). Lu discloses that at least one wear plate comprises a toe plate located in the upper section of the mat. Lu discloses at least one wear plate comprises a toe plate located in the upper section of the mat and a heel plate located in the lower section of the mat (figure 1). Lu discloses that at least one wear plate is surrounded at its edges by a contoured wall, raised and extending up from the bottom surface (figure 1). Lu discloses at least one wear plate comprises a toe plate located in

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the upper section of the mat and a heel plate located in the lower section of the mat (figure 1). Lu discloses that the floor mat further comprises a backside of the molded mat, the backside having at least one gripping section for gripping the vehicle floor, the gripping section having a plurality of outwardly extending protrusions (figure 2). Lu discloses that at least one gripping section located on the backside of the mat opposite the wear plate fixed to the front surface of the mat (figure 2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 10 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lu (Des 422256) in view of Wen-Hwang (5215348).

Lu discloses the floor mat described above. Lu fails to disclose that the wear plate comprises a metal plate having a texturized surface pattern. Wen-Hwang teaches that the wear plate is made of hard plastic for the purpose of increasing the serviceable life of the footpad (col. 2 lines 50-52). However, one of ordinary skill in the art would have recognized that hard plastic could be replaced with metal since they obtain similar durability in nature. It would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have provided the wear plate a metal plate, since it has been held to be within the general skill of a worker in the art to select a

known material on the basis of its suitability for the intended use as a matter of obvious design choice absence of showing unexpected results. In re Leshin, 125 USPQ 416.

Response to Arguments

4. Applicant's arguments filed in Paper #6 regarding 35 U.S.C. 103 of claims 1-7 have been fully considered but they are not persuasive.

In response to Applicant's argument that Lu fails to disclose the first area having a plurality of raised protrusions extending from the bottom surface thereby providing a texturized surface, in figure one Lu discloses the first area having a plurality of raised parallel rectangular protrusions extending from the bottom surface thereby providing a texturized surface.

In response to Applicant's argument that Lu fails to disclose a third area having the substantially smooth bottom surface provided for receiving the wear plate fixed thereupon, and the wear plate fixed to the smooth bottom surface of the third area, Lu discloses in figure one a smooth bottom surface provided for receiving the wear plate which are the parallel rectangular protrusions.

In response to Applicant's argument that Lu does not disclose a toe plate located in the upper section of the mat and a heel plate located in the lower section of the floor mat, Lu discloses in figure one an upper area and a lower area with rectangular parallel protrusions, which are the toe and heel plates.

Conclusion

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane J Rhee whose telephone number is 703-605-4959. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 703-308-4251. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Jane Rhee
October 29, 2002



HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

10/30/02